

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

Re: Ditech Holding Corporation, et al.,

Chapter 11

Debtors

Case No. 19-10412 (JLG)

**WRITTEN RESPONSE TO THE
OBJECTION**

Re: St. Clair, Deborah L.
670 Broadway Avenue
Bedford OH 44146
Carson Business Center
Bedford OH 44146 (please note the zip code 43246 is wrong)

Basis for Objection

"Claim lacks sufficient documentation to support validity of claim"

Claim Number 22760

Claim Amount \$172,723.60

"Concise Statement of Basis Reasons why Claim should not be disallowed"

Reason One- Defective Chain of Assignments

The assignment by Old Kent Mortgage Company, a Michigan Corporation to Bank of America was dated 2010 but Old Kent ceased to exist in 2002.

A complete and genuine copy of the Assignment is attached as *Exhibit A*.

A complete and certified copy of the Secretary of State Document is attached as *Exhibit B*.

Ditech does not have any right to collect or service this loan.

Reason Two- Wrongful Collection/Wrongful Attempted Foreclosure

On Tuesday, the 20th of November 2018 at about 12:58 pm Homeowner Deborah called an employee and agent of Ditech for the purpose of bringing her mortgage loan current.

She was informed the amount necessary to bring her loan current she would be obligated to pay \$5,178.76.

She paid this amount over the telephone in this conversation via her Woodforest Bank checking account. *Exhibit C*

This employee told Deborah in a conversation lasting about one hour that her account was current and that there would be no further issues which would cause her any further expenses.

On Wednesday, November 21, 2018, the payment of \$5,178.76 was withdrawn from the Woodforest Account of Deborah.

On Monday, November 26, 2018, a Complaint for Foreclosure was filed in the Portage Court of Common Pleas and given case # 2018 CV 943 and was styled Ditech Financial LLC fka Green Tree Servicing LLC. v. John D. St. Clair et. al. *Exhibit D*

On Monday, January 14, 2019, Ditech through counsel dismissed its case without prejudice at its own costs. *Exhibit E.*

Deborah has been damaged by the actions of these Defendants because Ditech had reinstated the Ditech Mortgage and thereafter engaged in a wrongful foreclosure and a wrongful collection of a debt.



/s/ Robert Otto Carson

670 Broadway Avenue

Bedford Oh 44146

robertottocarson@hotmail.com

440-439-5959

Certificate of Service

The foregoing Response was mailed by ordinary mail on this the 10th of February in the year of our Lord Two Thousand and Twenty by the undersigned to the following:

**United State Bankruptcy Court
Southern District of New York
One Bowling Green
New York New York 1004
attention Clerk Filing Desk**

**Chambers of Honorable James L. Garrity
United States Bankruptcy Court
One Bowling Green
New York New York 10004**

**Ditech Holding Corporation
Claims Processing Center
c/o Epiq Bankruptcy Solutions LLC
Claims Processing Center
10300 SW Allen Blvd.
Beaverton, OR 97005**

**Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York New York 10153
attention Sunny Singh & Patrick Feeney**

**Ditech Consumer Recovery Trust
c/o Settlement Administrator
P. O. Box 19422
Blue Bell PA 19422**


/s/ Robert Otto Carson

EXHIBIT **D**

BONNIE M. HOWE
PORTAGE CO. RECORDER

201314047

13 JUN 2013

RECEIVED FOR RECORD

AT 13:50:11

FEE 52.00

INDEXED

This space for Recorder's use

Property Address:
358 Greenwich St
Streetsboro, OH 44241-4758
OH-141 25380-00 6/12/2013 07:42:12

Recording Requested By:
Bank of America
Prepared By:
Marcus Jones
16001 N. Dallas Pkwy
Addicks, TX 75001

When recorded mail to:
CoreLogic
Mail Stop: ASGV
1 CoreLogic Drive
Westlake, TX 76061-9813

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 1600 TAPO CANYON ROAD, SIMI VALLEY, CA 93063 does hereby grant, sell, assign, transfer and convey unto GREEN TREE SERVICING LLC whose address is 7348 S. KYBURG ROAD, TEMPE, AZ 85283 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accreted or to accrue under said Mortgage.

Original Lender: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR OLD KENT MORTGAGE COMPANY, A MICHIGAN CORPORATION
Borrower(s): JOHN D. ST. CLAIR AND DEBORAH L. ST. CLAIR, HUSBAND AND WIFE
Date of Mortgage: 5/19/1999
Original Loan Amount: \$203,858.00
Recorded in: PORTAGE County, OH on: 5/21/1999, book 417, page 0112 and instrument number 9914712

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on JUN 18 2013.

Bank of America, N.A.

By: [Signature]
Aracelis Acosta-Hernandez
Assistant Vice President

State of TX, County of Dallas

On JUN 18 2013, before me, Sharron Wyatt, a Notary Public, personally appeared Aracelis Acosta-Hernandez, Assistant Vice President of Bank of America, N.A., personally known to me to be the person(s) whose name(s) is/are subscribed to the within document and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the document the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

[Signature]
Notary Public: Sharron Wyatt
My Commission Expires: 07-23-16



Ex A

Doc ID → 200219200828

DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
07/11/2002	200219200828	MERGED OUT OF EXISTENCE (MEX)	.00	.00	.00	.00	.00

Receipt

This is not a bill. Please do not remit payment.

CSC/DIAMOND ACCESS
50 W. BROAD STREET, SUITE 1800
COLUMBUS, OH 43215

STATE OF OHIO

Ohio Secretary of State, J. Kenneth Blackwell

851384

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

OLD KENT MORTGAGE COMPANY

and, that said business records show the filing and recording of:

Document(s)

MERGED OUT OF EXISTENCE

Document No(s):

200219200828



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 10th day of July, A.D.
2002.

J. Kenneth Blackwell
Ohio Secretary of State

Ex B

Doc ID -->

200219200828



Prescribed by **J. Kenneth Blackwell**
Ohio Secretary of State
Central Ohio: (614) 466-3910
Toll Free: 1-877-SOS-FILE (1-877-767-3453)

www.state.oh.us/sos
e-mail: busserv@sos.state.oh.us

Expedite this Form: (Select One)	
<input checked="" type="radio"/> Yes	PO Box 1390 Columbus, OH 43216 *** Requires an additional fee of \$100 ***
<input type="radio"/> No	PO Box 1329 Columbus, OH 43216

CERTIFICATE OF MERGER
(For Domestic or Foreign, Profit or Non-Profit)
Filing Fee \$125.00
(154-MER)

In accordance with the requirements of Ohio law, the undersigned corporations, banks, savings banks, savings and loan, limited liability companies, limited partnerships and/or partnerships with limited liability, desiring to effect a merger, set forth the following facts:

I. SURVIVING ENTITY

A. The name of the entity surviving the merger is:

FIFTH THIRD MORTGAGE COMPANY

B. Name Change: As a result of this merger, the name of the surviving entity has been changed to the following:

(Complete only if name of surviving entity is changing through the merger)

C. The surviving entity is a: (Please check the appropriate box and fill in the appropriate blanks):

- ☒ Domestic (Ohio) For-Profit Corporation, charter number 668805
- ☐ Domestic (Ohio) Non-Profit Corporation, charter number _____
- ☐ Foreign (Non-Ohio) Corporation incorporated under the laws of the state/country of _____
and licensed to transact business in the State of Ohio under license number _____
- ☐ Foreign (Non-Ohio) Corporation incorporated under the laws of the state/country of _____
and NOT licensed to transact business in the state of Ohio, _____
- ☐ Domestic (Ohio) Limited Liability Company, with registration number _____
- ☐ Foreign (Non-Ohio) Limited Liability Company organized under the laws of the state/country of _____
and registered to do business in the State of Ohio under registration number _____
- ☐ Foreign (Non-Ohio) Limited Liability Company organized under the laws of the state/country of _____
and NOT registered to do business in the State of Ohio, _____
- ☐ Domestic (Ohio) Limited Partnership, with registration number _____
- ☐ Foreign (Non-Ohio) Limited Partnership organized under the laws of the state/country of _____
and registered to do business in the state of Ohio under registration number _____

PORTAGE COUNTY COMMON PLEAS COURT

DITECH FINANCIAL LLC, Plaintiff

Case 2018 CV 943

v.

Judge Becky I. Doherty

JOHN D. St. CLAIR, *et. al.*

Affidavit of Deborah St. Clair

County of Cuyahoga

State of Ohio

ss:

Deborah L. St. Clair, being first duly sworn according law, states from her own personal knowledge facts as follows:

1. I am a Defendant in the above captioned foreclosure case;
2. I called an agent of the Plaintiff on Tuesday November 20, 2018, at about 12:58 pm;
3. We discussed the amount needed to bring my loan current;
4. He told me in order to bring my loan current I had to pay \$5,178.76;
5. I immediately worked with him in this same conversation to pay this exact amount;
6. I gave him the information to pay over the telephone using my Woodforest Bank account including my checking account number and routing number;
7. He accepted the amount and told me that this payment would bring my loan current;
8. The conversation lasted about one hour;
9. As it was extremely important to me, at the end of the conversation, I asked him again if my loan was current and he assured with this payment the loan was current and I had no issues which would cause me any further expenses;
10. I specifically asked him what would be my monthly payment from this point on;
11. He gave me that amount and I paid timely my December payment in that amount;
12. I received my Woodforest Bank Checking Statement and saw that the payment of \$5,178.76 was withdrawn from my account on Wednesday November 21, 2018;
13. I have not received a Notice of Acceleration;
14. My Mortgage at issue in this case states in relevant part in paragraph 21 as follows:
"Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument..."

Ex C

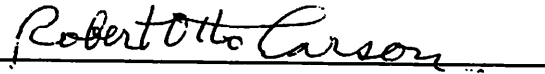
15. I received no information as follows:

- a. the action required to cure the default;
- b. a date, not less than 30 days from the date of the notice ... on how to cure the default
- c. failure to cure default on or before date specified may result in acceleration
- d. right to reinstate after acceleration; and

16. I have incurred damages as a result of Plaintiff's actions both financially and emotionally.


Deborah L. St. Clair

Sworn to and subscribed before me by Deborah L. St. Clair on this 21st day of December in the year of our Lord Two Thousand and Eighteen.



ROBERT OTTO CARSON, JR.

Main Document
FILED
COURT OF COMMON PLEAS
NOV 26 2018
JILL FANKHAUSER, Clerk
PORTAGE COUNTY, OH

F18-26179

DKH/fs: jef

November 19, 2018

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

Ditech Financial LLC fka Green Tree Servicing
LLC
3000 Bayport Drive, Suite 880
Tampa, FL 33607

Plaintiff

-vs-

John D. St. Clair
868 Greenhaven Street
Streetsboro, OH 44241

Also serve at:
670 Broadway Avenue
Bedford, OH 44146;

Deborah L. St. Clair
868 Greenhaven Street
Streetsboro, OH 44241

Also serve at:
670 Broadway Avenue
Bedford, OH 44146;

Capital One Bank (USA), National Association
15000 Capital One Drive
Richmond, VA 23238;

State of Ohio Department of Taxation
c/o Ohio Attorney General
150 East Gay Street
Columbus, OH 43215

-and-

CASE NO.

PPN: 35-023-00-00-137-001

JUDGE

JUDGE BECKY L. DOHERTY

COMPLAINT FOR FORECLOSURE

(IN REM ONLY)

2018CV00943

Ex D

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

Ditech Financial LLC fka Green Tree Servicing LLC)	Case No. 2018CV00943
)	
Plaintiff)	Judge Becky L. Doherty
)	
vs.)	NOTICE OF VOLUNTARY DISMISSAL
)	WITHOUT PREJUDICE
)	
John D. St. Clair et al.)	
Defendants)	

NOW COMES Plaintiff, Ditech Financial, LLC fka Green Tree Servicing, LLC, by and through undersigned counsel, pursuant to Civil Rule 41(A)(1)(a), hereby dismisses all claims asserted by it, without prejudice, at Plaintiff's costs.

Respectfully submitted,

Reimer Law Co.



Mike L. Wiery (0068898)
P.O. Box 96696
30455 Solon Road
Solon, Oh 44139
Phone: (440) 600-5500/Fax: (440) 600-5520
mwiery@reimerlaw.com
Attorney for Plaintiff

Ex E